

EXHIBIT 4DATE 3/27/07SB 527

Subj: **Fwd: Support for SB 537 (sorry to be late)**  
Date: 3/27/2007 12:04:06 P.M. Mountain Daylight Time  
From: Phanopepla  
To: Drathaar2

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Forwarded Message:

Subj: **Support for SB 537 (sorry to be late)**  
Date: 3/27/2007 11:57:34 A.M. Mountain Daylight Time  
From: [sues@lakemt.gov](mailto:sues@lakemt.gov)  
To: [GLONKY@aol.com](mailto:GLONKY@aol.com), [Phanopepla@aol.com](mailto:Phanopepla@aol.com)

*Sent from the Internet (Details)*

I am writing on behalf of Lake County, MT to encourage the House Local Government to approve SB 527. We believe the Bill clarifies the intent of the regulations and ensures that the proper infrastructure is in place to support the intended use. Without review under Section 5 and 6 of Chapter 3 of the Montana Subdivision and platting act, there is no review and approval of the governing body on issues such as adequate maintenance agreements for shared infrastructure, access, parking, adequate fire department access, stormwater management, etc.

Sue Shannon, Director

Here are some actual scenario's from Lake County that will continue to occur without the proposed changes: In Lake County we have had two existing RV parks that have condo'd with no review using the exemption. Without any zoning in place, some of these condo sites in the old RV parks are now being developed with stick built structures and turning into permanent year round use as opposed to the seasonal transient use typically associated with RV parks. These sites are not well suited for more than RV's in that there is limited parking area on the sites, there are no setback requirements to maintain a fire break between the structures and there is no provision for stormwater management or maximum impervious surface area. There has also been septic system violations in one of the park where the new development has changed the flow rates. In this instance the county and state has had a difficult time working with the condo association (as opposed to an individual) to deal with the problem.

A more recent development in the City of Polson was a condominium that was going through review and received a recommendation of denial from the Planning Board because of its location in a proposed Airport Influence Zone (the creation of the Airport Influence Zoning has not yet been completed by the County airport board but there is a draft regulation that is going through the public review process). After the denial the developers have withdrawn the application and submitted it as an exempted condominium development. In this case there were two properties in the subject proposal. One was created by deed exhibit prior to implementation of the Montana Subdivision and Platting Act and the applicants successfully argued that the lot was created in compliance with the chapter. The other was a lot that existed prior to the implementation of the Montana Subdivision and Platting Act that was "retraced" by survey in 1980 and recorded. Because a "retracement" survey is exempted from review under the Montana Subdivision and Platting Act, the survey was filed in compliance with the chapter. Neither one of these parcels had ever been reviewed by the governing body when created, and a condominium development was never contemplated on either tract when it was created. Because the area was zoned, the proposed condominium development was allowed to proceed without input from the County Airport Board regarding their concerns regarding compliance with the proposed Airport Zoning.

Tuesday, March 27, 2007 America Online: Drathaar2

Lastly, the majority of Lake County is currently zoned for density only. This zoning regulation does not address lot development other than the permitted number of units per acre. Since the court ruling on Shultz v. Liberty Cove, 2006 MT 247, any condominium development proposal in Lake County would be exempted from review if it met the density requirement and it is determined that "the land was divided in compliance with the chapter" which would only require a "retracement" survey to be filed. This would allow condominium development in the majority of Lake County without review and approval of the governing body on issues such as public access, parking, adequate fire department access and input on construction concerns, stormwater management, etc.

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